

EMPLOYER BULLETIN

Public Act 94-1057 Signed Into Law

September 2006

Background

Included with this bulletin is *Employer Bulletin 07-04* which clarifies issues regarding employer contributions required by Public Act 94-0004 for salary increases over 6 percent and sick leave days granted in excess of the normal annual allotment. *Employer Bulletins 06-03* and *07-04* explain the length of the initial and extended exemption time periods for which employers may be temporarily exempt from these employer contributions.

Public Act 94-0004 requires employers to pay contributions equal to the actuarial value of the pension benefit resulting from a salary increase over 6 percent that is used to calculate a retiring member's final average salary. These contributions are sometimes referred to as "employer contributions for excess salary increases." PA 94-0004 is revised by Senate Bill 49 which was signed into law July 31, 2006 as Public Act 94-1057.

PA 94-1057 provides additional exemptions from employer contributions for excess salary increases. Some of these exemptions are permanent while others are available for a limited time period. The exemptions provided in PA 94-1057 apply only in specified circumstances and only to members retiring on or after July 31, 2006. PA 94-1057 does not apply to any member whose effective date of retirement is prior to July 31, 2006.

An employer may qualify under PA 94-0004 for an extended exemption from employer contributions for excess salary increases for a specific retiring member. In this case, the employer does not need to apply for any of the PA 94-1057 exemptions for that member during the extended exemption period.

Permanent exemptions for retirements that occur on or after July 31, 2006

Consolidations/annexations

PA 94-0004 requires employer contributions for a member's excess salary increases that were received from the same employer. If a member changes employers, PA 94-0004 does not require employer contributions for a salary increase over 6 percent that was earned during the first year with the new employer. PA 94-1057 clarifies that a consolidation or annexation constitutes a change in employer for the purpose of calculating employer contributions for excess salary increases. Salary increases greater than 6 percent that were awarded by the new employer during the year of consolidation or annexation are excluded from the calculation of employer contributions for excess salary increases. This exemption applies only for members whose employer number has changed. When an annexation has occurred, the exemption does not apply to those teachers who continue to be reported under the same employer number.

Example of consolidation: Beginning with the 2007-08 school year, District 10, District 20 and District 30 consolidate to form a new school district, District 100. District 100 is exempt from employer contributions for 2007-08 excess salary increases for members who were employed by District 10, District 20 and District 30 during the 2006-07 school year.

Example of annexation: Beginning with the 2008-09 school year, District 50 is eliminated through annexation to an existing school district, District 200. Under PA 94-1057, District 200 is exempt from employer contributions for 2008-09 excess salary increases for members who were employed by District 50 during the 2007-08 school year. However, District 200 is not exempt for 2008-09 salary increases for members who were employed by District 200 during the 2007-08 school year.

Full-time equivalency

For part-time and substitute teachers, TRS will use full-time equivalent rates to determine if salary increases exceeded 6 percent during the final average salary years. Employers should continue to follow the current guidelines for reporting each member's annual salary rate and creditable earnings to TRS. At the time the retirement benefit is calculated, TRS will contact the employer if additional salary information is needed to determine a full-time equivalent rate. An employer contribution for excess salary increases will only be required if the comparison of full-time equivalent rates reflects an increase over 6 percent.

Example: Teacher A works part-time (3 days per week) during the 2006-07 school year and earns \$36,000. Teacher A works full-time during the 2007-08 school year and earns \$62,000. To determine if an employer contribution is required, TRS compares a full-time equivalent salary of \$60,000 for the 2006-07 school year to the actual 2007-08 full-time salary of \$62,000. In this example, the increase from the full-time equivalent salary of \$60,000 to \$62,000 is less than 6 percent. Therefore, no employer contribution is required even though Teacher A's reportable annual salary rate and creditable earnings increased from \$36,000 to \$62,000.

TRS will make every effort to identify applicable permanent exemptions during the benefit calculation process and apply them automatically. Therefore, in most cases it will not be necessary for the employer to request the exemptions for consolidations/annexations or full-time equivalency. However, if an employer receives notice that employer contributions for excess salary increases are due and believes these exemptions were not properly applied, the employer should send TRS a written request for review. The correspondence should cite any pertinent facts and should include employer contact information.

Temporary salary exemptions

For a limited time, Public Act 94-1057 allows employers to request exemption from employer contributions for excess salary increases on certain types of compensation. These exemptions apply to members retiring on or after July 31, 2006. An employer may be exempt from employer contributions on only the portion of a member's salary increase that is due to one of the reasons listed below. The following exemptions apply to salary increases earned for the period of June 1, 2005 through June 30, 2011. If a contract

or collective bargaining agreement (CBA) is entered into between June 1, 2005 and June 30, 2011, and expires on or after July 1, 2011, salary increases due to the reasons listed below may be eligible for an extended exemption through the earlier of either the contract/CBA ending date or June 30, 2014.

- **Overload work performed by a full-load (100 percent time) teacher.** Overload work (class overload) is defined as classroom instruction in excess of the standard number of teaching class periods per day required by the employer of full-load teachers. Qualifying overload work will typically be performed by a classroom teacher for a complete semester or school term.

To be eligible for exemption from employer contributions, the salary increase for overload work must be proportional to the teacher's base annual salary rate. Only overload earnings that are equal to or less than a prorated portion of the teacher's base annual salary rate for classroom instruction will be eligible for the exemption.

Example: Full-load teachers at District 300 are required to teach six class periods per day and have one daily preparation period. Due to an increase in students, an additional class is added. Teacher B gives up his preparation period and teaches seven classes per day. He receives an additional 1/6 of his base annual salary rate for teaching the additional class for the entire school term.

If the resulting salary increase is used in Teacher B's final average salary calculation, PA 94-1057 allows District 300 to request that TRS recalculate the employer contribution for excess salary increases, excluding the portion of Teacher B's salary increase attributable to the class overload.

Intermittent periods of internal substitution/class coverage, tutoring, homebound teaching, and other extra-duty assignments such as coaching, sponsorship, or curriculum development do not qualify as overload work for exemption purposes. Exemptions from employer contributions are not available for salary increases due to the performance of extra duties.

- **Summer school teaching performed by a full-load (100 percent time) teacher.** To qualify for this exemption,
 - o the member must be a full-load teacher at the same employer during the regular school term,

- o the salary increase must be earned for summer classroom instruction, and
- o the summer rate of pay cannot exceed the member's base rate of pay for classroom instruction during the regular school term.

The exemption does not apply to

- o summer duties that do not require teacher certification, such as attendance at workshops or curriculum writing;
 - o tutoring or substitute teaching during the summer school session;
 - o members who work less than 100 percent time during the regular school term;
 - o members who teach summer school at one employer but are employed on a full-load basis by a different employer during the regular school term; or
 - o members who only teach summer school.
- **Salary increases resulting from a promotion for which the member is required to hold a certificate or supervisory endorsement that is different than the certificate or supervisory endorsement required for the member's previous position.** To be eligible for this exemption, the member must be required by the Illinois School Code to hold a different teaching certificate or supervisory endorsement in the new position than was required for the member's previous position.

The Illinois State Board of Education, not TRS or the employer, determines the teaching certificate or supervisory endorsement required for a particular position.

To be eligible for the exemption,

- o the promotion must be to a pre-existing position that has been filled by a teacher for at least one school year; and
- o the salary must be no greater than the lesser of either
 - the average salary paid for similar positions at the district requiring the same certification, or
 - the amount stipulated in the CBA for a similar position requiring the same certification.

The employer is exempt from the employer contributions due to salary increases as a result of promotion only in the first school year the member holds the new position.

Example: Teacher C was a full-time teacher at District 400 through the 2007-08 school year. District 400 has an open principal position due to a recent retirement. Teacher C is promoted to the principal position at the beginning of the 2008-09 school year. The Illinois School Code requires Teacher C to hold a Type 75 administrative certificate in the principal position. Teacher C's previous teaching position required a Type 03 elementary certificate. As principal, Teacher C will earn a 2008-09 base salary of \$65,000 which is comparable to salaries of other principals at District 400. As a teacher, Teacher C earned a 2007-08 base salary of \$55,000 and would have earned a 2008-09 base salary of \$58,000 had she remained in her teaching position.

Teacher C works three years in the principal position and retires after the 2010-11 school year. The 2008-09 school year is used in Teacher C's final average salary calculation and District 400 is notified of an employer contribution for the 2008-09 increase and a 2010-11 increase. PA 94-1057 would allow District 400 to request TRS to exclude the \$7,000 (\$65,000 - \$58,000) portion of the 2008-09 salary increase in a recalculation of the employer contribution only for the 2008-09 school year.

- **Payments made to the member from the State of Illinois or the Illinois State Board of Education over which the employer does not have discretion.** Examples of payments over which the employer does not have discretion include the stipend for becoming a National Board Certified teacher (also referred to as Master Teacher Stipend) and payments for workshops presented or attended at the Regional Office of Education (ROE) for which the ROE requires the school district to be the common paymaster.
- **Salary increases over 6 percent paid to members who are 10 or more years from retirement eligibility.** This exemption will be automatically applied when TRS processes the member's claim.

Billing process

During the processing of a member's retirement benefit, TRS will provide employers a separate notification for each member with an employer contribution due for salary increases in excess of 6 percent or excess sick leave days. After the initial employer contribution notification, the amounts due will be reflected on the monthly Employer Bill (printed around the 25th of each month). The initial notification will include a list of the eligibility requirements for an extended exemption under PA 94-0004. An Extended Exemption Affidavit form for PA 94-0004 exemptions will be enclosed with the notification. If the notification is for contributions due to salary increases over 6 percent and the member's effective date of retirement is on or after July 31, 2006, a Salary Exemption Affidavit form for PA 94-1057 exemptions will also be enclosed.

Upon receipt of an employer cost notification, the employer should first evaluate eligibility for an extended exemption under PA 94-0004 (refer to *Employer Bulletin 07-04*). To claim an extended exemption, the employer must

- complete and sign the Extended Exemption Affidavit,
- attach a copy of the member's written notification of retirement dated on or before the expiration of the contract or CBA, and
- submit these documents to the TRS Springfield office.

TRS will review the documentation to determine if the employer meets the eligibility requirements for exemption from the employer contribution.

If the employer determines an extended exemption is not applicable to the retiring member, the employer should **not** complete/submit the Extended Exemption Affidavit. However, the employer should then review the nature of the member's salary increases to determine eligibility for an exemption under PA 94-1057. To claim an exemption under PA 94-1057, the employer must

- complete and sign the Salary Exemption Affidavit, and
- return it to TRS no later than 30 days after receipt of the monthly Employer Bill.

TRS assumes the Employer Bill is received by the employer on the first of the month following the date it was mailed.

If the Salary Exemption Affidavit is not received within 30 days of receipt of the Employer Bill, the employer contributions for salary increases in excess of 6 percent cannot be recalculated. Contributions owed may be paid as a lump sum within 90 days of receipt of the Employer Bill. Contributions not paid within 90 days will accrue interest at 8.5 percent until paid. The bill must be paid within three years of receipt.

Please note that the salary increase for which an exemption is claimed by the employer on the Salary Exemption Affidavit must be new to the member or have increased by at least 6 percent in the year(s) the employer is seeking exemption. Only then will the recalculated employer contribution be lower than the amount provided in the original employer notification. When excess salary increases are due partially to circumstances that qualify for exemption and partially to circumstances that do not qualify for exemption, the employer may be eligible for a partial waiver of the employer contribution.

Public Act 94-1057 requires the employer contributions for sick leave days granted in excess of the normal annual allotment be paid within 30 days of receipt of the Employer Bill.

Questions

For questions about employer contributions for excess salary increases, please contact the TRS Employer Services Department at (888) 877-0890, option 1.

In addition to the information provided in this bulletin, *Employer Bulletins 05-09, 06-03, and 07-04* are available on our Web site at trs.illinois.gov. These bulletins explain employer contributions required for sick leave days granted in excess of the normal annual allotment and salary increases over 6 percent that are used in the final average salary calculation. From the TRS home page, click on "Employer Services," then "Publications," and "Employer Bulletins."